

August 13, 1992
REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

ADMINISTRATIVE CIVIL LIABILITY
COMPLAINT NO. 92-61

The Executive Officer of the Regional Water Quality Control Board has filed Administrative Civil Liability Complaint No. 92-61 seeking sanctions for an alleged violation of his Cleanup and Abatement Order issued on February 11, 1992 requiring certain remedial measures as a result of the Point Loma outfall rupture.

The City of San Diego filed a detailed response on February 17, 1992 to the Cleanup and Abatement Order agreeing to implement all remedial measures except for providing an independent analysis of the rupture. The City maintained that such an order was beyond the authority of the Executive Officer and moreover was a privileged investigation since it bore on the actual and potential claims arising from the rupture. This position was reaffirmed in an April 10, 1992 letter from my office citing the applicable authority. The Executive Officer now seeks to test his authority by seeking a penalty for failure to provide the requested report by the specified date.

My office has filed a detailed response to all allegations asserted by the Executive Officer and will contest any imposition of sanctions. As of the present date, the City has not received the report of Failure Analysis since the firm has been requested to examine additional information as possible causes of the rupture.

The hearing on the Executive Officer's complaint has been scheduled for August 17, 1992 at Encinitas, California, and you will be promptly notified of the results.

Respectfully submitted,
JOHN W. WITT
City Attorney
TB:mb:452.1.1(043.1)
RC-92-49

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